

1 BINGHAM McCUTCHEN LLP
 2 DONN P. PICKETT (SBN 72257)
 3 GEOFFREY M. HOWARD (SBN 157468)
 4 HOLLY A. HOWARD (SBN 136045)
 5 ZACHARY J. ALINDER (SBN 209009)
 6 BREE HANN (SBN 215695)
 7 Three Embarcadero Center
 8 San Francisco, CA 94111-4067
 9 Telephone: (415) 393-2000
 10 Facsimile: (415) 393-2286
 11 donn.pickett@bingham.com
 12 geoff.howard@bingham.com
 13 holly.house@bingham.com
 14 zachary.alinder@bingham.com
 15 bree.hann@bingham.com

9 DORIAN DALEY (SBN 129049)
 10 JENNIFER GLOSS (SBN 154227)
 11 500 Oracle Parkway, M/S 5op7
 12 Redwood City, CA 94070
 13 Telephone: (650) 506-4846
 14 Facsimile: (650) 506-7114
 15 dorian.daley@oracle.com
 16 jennifer.gloss@oracle.com

14 Attorneys for Plaintiffs
 15 Oracle USA, Inc., Oracle International Corporation, and
 16 Oracle EMEA Limited

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

19 ORACLE USA, INC., *et al.*,
 20 Plaintiffs,
 21 v.
 22 SAP AG, *et al.*,
 23 Defendants.

CASE NO. 07-CV-01658 PJH (EDL)
**STIPULATION TO FILE
 PLAINTIFFS' DOCUMENTS AND
 DEPOSITION TESTIMONY UNDER
 SEAL**

1 Pursuant to Local Rules 7-11(a) and 79-5(b)-(c), Plaintiffs Oracle USA, Inc., Oracle
2 International Corporation, and Oracle EMEA Limited (collectively, “Oracle”) and Defendants
3 SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively, “Defendants,” and with
4 Oracle, the “Parties”) jointly submit this stipulation to permit Oracle to file documents and
5 testimony under seal.

6 The requested relief is necessary and narrowly tailored to protect the confidentiality of
7 materials that have been designated “Confidential Information” or “Highly Confidential
8 Information” by Oracle pursuant to the Stipulated Protective Order entered in this action, and
9 that Oracle intends to file in support of its Oppositions to Defendants’ Motion for Sanctions
10 Pursuant to Fed. R. Civ. P. 37(c) and 16(f) (the “Opposition to Sanctions Motion”) and Oracle’s
11 Opposition to Defendants’ Motion to Compel Financial Information (“Motion to Compel
12 Opposition”), until such time as the Court rules on the confidentiality of the relevant subject
13 matter.

14 Specifically, (1) portions of the Opposition to Sanctions Motion; (2) the testimony
15 identified as Exhibits G through J of the Declaration of Holly A. House (the “House Sanctions
16 Declaration”) filed in support of Plaintiffs’ Opposition to Sanctions; (3) portions of the Motion to
17 Compel Opposition; (4) portions of Declaration of Holly A. House in support of Plaintiffs’
18 Motion to Compel Opposition (the “House Motion to Compel Declaration”); (5) the document
19 identified as Exhibit F of the House Motion to Compel Declaration; (6) portions of the
20 Declaration of Ivgen Guner in support of Plaintiffs’ Motion to Compel Opposition (the “Guner
21 Declaration”); (7) portions of the Declaration of Alex San Juan in support of Plaintiffs’ Motion
22 to Compel Opposition (the “San Juan Declaration”); and, (8) portions of the Declaration of Paul
23 K. Meyer (the “Meyer Declaration”) in support of Plaintiffs’ Motion to Compel Opposition,
24 contain information designated by Oracle as “Confidential Information” and “Highly
25 Confidential Information - Attorneys’ Eyes Only,” pursuant to the Protective Order entered in
26 this action on June 6, 2007.

27 Accordingly, the Parties, through their respective counsel of record, stipulate that Oracle
28 be permitted to file (1) portions of the Opposition to Sanctions Motion; (2) the testimony

1 identified as Exhibits G through J of the Declaration of Holly A. House (the “House Sanctions
 2 Declaration”) filed in support of Plaintiffs’ Opposition to Sanctions; (3) portions of the Motion to
 3 Compel Opposition; (4) portions of Declaration of Holly A. House in support of Plaintiffs’
 4 Motion to Compel Opposition (the “House Motion to Compel Declaration”); (5) the document
 5 identified as Exhibit F of the House Motion to Compel Declaration; (6) portions of the
 6 Declaration of Ivgen Guner in support of Plaintiffs’ Motion to Compel Opposition (the “Guner
 7 Declaration”); (7) portions of portions of the Declaration of Alex San Juan in support of
 8 Plaintiffs’ Motion to Compel Opposition (the “San Juan Declaration”); and, (8) portions of the
 9 Declaration of Paul K. Meyer (the “Meyer Declaration”) in support of Plaintiffs’ Motion to
 10 Compel Opposition. The Parties further agree that Defendants reserve their rights to challenge
 11 the confidentiality of the information filed under seal pursuant to this Stipulation and understand
 12 that this Stipulation is not intended to relieve Oracle’s burden, under Local Rule 79-5(d), of
 13 supporting the confidentiality of the documents at issue. The Parties agree that neither the act of
 14 filing nor the filed documents shall be construed as a waiver of confidentiality designation or
 15 other protection with respect to documents, transcripts, or other information referred to in, or that
 16 serve as the basis for, the allegations or arguments made therein.

17 IT IS SO STIPULATED.

18 DATED: July 27, 2009

BINGHAM McCUTCHEN LLP

19 By: _____ /s/

20
 21 Holly A. House
 22 Attorneys for Plaintiffs
 23 Oracle USA, Inc., Oracle International
 24 Corporation, and Oracle EMEA Limited

25 In accordance with General Order No. 45, Rule X, the above signatory attests that
 26 concurrence in the filing of this document has been obtained from the signatory below.

1 DATED: July 27, 2009

JONES DAY

2

By: /s/

3

Jason McDonell
Attorneys for Defendants
SAP AG, SAP America, Inc., and
TomorrowNow, Inc.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28